

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JEREMY EDWIN PORTER & RUTH ANN)
PORTER,)
)
Petitioners,)
)
v.) Docket No. 16966-14
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

ORDER

This case for the redetermination of deficiencies is before the Court on respondent's Motion for Leave to File out of Time First Amendment to Answer, filed June 16, 2015. Petitioners' objection to respondent's motion was filed July 2, 2015. In his first amendment to answer, lodged on June 16, 2015, respondent alleges that for each year in issue, petitioners are liable for fraud penalties under section 6663.¹

In general, after a responsive pleading has been served, or if after 30 days no responsive pleading is permitted, "a party may amend a pleading only by leave of Court or by written consent of the adverse party, and leave shall be given freely when justice so requires." Rule 41(a). That Rule reflects "a liberal attitude toward amendment of pleadings." 60 T.C. 1089 (explanatory note accompanying promulgation of Rule 41). Petitioners have not consented to the amendment. Nevertheless, because the case has not yet been calendared for trial, and because there is no showing that petitioners would suffer unfair surprise, disadvantage, or prejudice if the amendment were allowed, see Estate of Quick v. Commissioner, 110 T.C. 172, 178 (1998), it is

ORDERED that respondent's motion is granted. It is further

¹Section references are to the Internal Revenue Code of 1986, as amended. Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at www.ustaxcourt.gov.

ORDERED that the Clerk of the Court shall file respondent's First Amendment to Answer, lodged on June 16, 2015, as of the date of this Order.

(Signed) Lewis R. Carluzzo
Special Trial Judge

Dated: Washington, D.C.
July 29, 2015